

UNITED STATES DEPARTMENT OF JUSTICE
OFFICE OF THE UNITED STATES TRUSTEE
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UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

In re:	:	Chapter 11
	:	
Anthony & Veronica Curto	:	Case No. 20-14300(VFP)
	:	
	:	Hearing Date: June 23, 2020 at 10:00am
Debtors	:	
	:	Honorable Vincent F. Papalia

**OBJECTION BY THE UNITED STATES TRUSTEE TO THE
MOTION FOR ENTRY OF AN ORDER PURSUANT TO 11 U.S.C. § 1189(b) TO
EXTEND TIME PERIOD TO FILE CHAPTER 11 PALN**

The United States Trustee (the “U.S. Trustee”), by and through counsel, and in furtherance of his duties pursuant to 28 U.S.C. § 586(a)(3) and (5), hereby objects to the Debtor’s Motion For Entry of an Order Pursuant to 11 U.S.C. § 1189(b) to Extend Time Period to File Chapter 11, Subchapter V Plan of Reorganization (the “Motion”) for the following reasons:

BACKGROUND

1. On March 12, 2020, Anthony and Veronica Curto (the “Debtors”) filed a voluntary petition for relief under chapter 11 of Title 11 of the United States Code, §§ 101 *et seq.* (the “Bankruptcy Code”). The Debtors have remained in possession of its assets and financial

affairs pursuant to sections 1107 and 1108 of the Bankruptcy Code. ECF No. 1.

2. The Debtors made a Small Business, Subchapter V designation on their petition.

See id.

3. The U.S. Trustee appointed Mark Hall, Esq., as the Subchapter V trustee on March 17, 2020. ECF No. 8.

4. A Subchapter V Status Report was filed on April 8, 2020. ECF No. 26. The Status Report stated that the accountant was working on the Monthly Operating Reports and that they would be sent to counsel by April 15, 2020. *See id.*

5. On June 1, 2020 the Motion was filed, requesting a 60-day to file their chapter 11 Plan, until July 31, 2020. ECF No. 43.

OBJECTION

6. Section 1189(b) of the Bankruptcy Code sets the deadline for a debtor's time for filing a chapter 11 plan and provides as follows:

(b) the debtor shall file a plan not later than 90 days after the order for relief under this chapter, except that the court may extend the period if the need for the extension is attributable to circumstances for which the debtor should not justly be held accountable.

7. Subchapter V was created to streamline the reorganization process for small business debtors because small businesses often struggle to reorganize under chapter 11. *See In re Ventura*, 2020 WL 1867898, at *7 (Bankr. E.D.N.Y. April 10, 2020)(citing *H.R. REP. NO.* 116-171, at 1-2(2019)).

8. This case was filed on March 12, 2020. Accordingly, the March, April and May Monthly Operating Reports ("MORs") will be due by the return date of this Motion. While the pandemic and the other reasons cited in the Motion could justify extending the date to file a plan,

the Court, the United States Trustee, the Subchapter V trustee and parties in interest should have the benefit of reviewing the MORs to determine if the Debtors are making progress towards a plan of reorganization.

9. The ninety-day deadline to file a plan in Subchapter V cases is obviously meant to expedite the time and resources of a small business estate. However, the Debtors should not be able to extend deadlines in a vacuum without complying with their disclosure requirements, such as the filing of MORs which contain vital financial information about the case.

10. Further, the failure to file MORs constitutes “cause” to convert or dismiss this case. *See* Bankruptcy Code § 1112(b)(4)(F).

CONCLUSION

11. For the foregoing reasons, the U.S. Trustee respectfully requests that the Motion be denied if the MORs are not filed by the return date of this Motion. If the Motion is denied the United States Trustee will file a motion to convert or dismiss on shortened time.

ANDREW R. VARA
UNITED STATES TRUSTEE
REGIONS 3 AND 9

/s/ Mitchell Hausman
Mitchell Hausman
Trial Attorney

DATED: June 16, 2020